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Quarry Must Post Bond as Large Mine

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A Larson Limestone Co. quarry in Utah County qualifies as a large mining operation and is subject to state regulation, the Utah Supreme Court has unanimously decided.

The court's opinion, released Tuesday, means the company must post a \$50,000 surety for and reclamation and submit to the jurisdiction of the state Division of Oil, Gas and Mining.

Larson Limestone had objected that posting the bond and following division regulations would increase its operation costs, making it less competitive with other sand, gravel and rock aggregate businesses in Utah.

The quarry on the west side of Utah Lake was opened in the late 1800s by U&I Sugar, which extracted high quality limestone sandwiched between layers of lower quality limestone.

Debate at the state Supreme Court centered on the amount of and now being disturbed.

The company had filed a notice of intent to commence small mining operations — under 5 acres —

in 1988. It reported the total disturbed area to be 4.6 acres, based on land affected by extraction of high-quality limestone.

The company believed the Utah Mined Land Reclamation Act excluded its low quality limestone mining under an exemption for "rock aggregate" operations.

But in a 1992 review, the state division determined Larson Limestone was affecting a minimum of 20 acres, making it a large mining operation required to post the \$50,000 surety for eventual land reclamation.

Larson Limestone argued that only the small amount of land where high quality limestone is actually extracted from the low quality limestone should be counted. Since that area is less than five acres, the business should be considered a small mining operation exempt from the act, it argued.

The high court disagreed. All the crushing and loading pads, access roads and stockpiles are used in excavation of the high- and low-

quality rock, and it is fair to include them in the calculation of disturbed land, wrote Justice Christine Durham.

"Larson's argument that it is a rock aggregate company rather than a limestone company because a commercial market exists for its overburden [lower quality rock] would mean that virtually any 'mining operation' could avoid regulation simply by selling its overburden," Durham said.

"Most high grade ore does not, of course, lie freely upon the earth's surface unconnected to low-quality materials. Under Larson's theory, the operators of a gold mine could remove gold from the limited mining areas, sell their waste rock as rock aggregate, and avoid posting the \$50,000 reclamation surety, regardless of the size of the area disturbed by the total mining effort.

"Clearly, the Utah Legislature did not intend to permit circumvention of the Act in this fashion," Durham said.